

Message

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**From:** Aviles, Jesse [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=9FEDD63547464C589715A846AFAD05EC-AVILES, JESSE]  
**Sent:** 5/13/2020 3:28:01 PM  
**To:** Chalfant, Mark [Chalfant.Mark@epa.gov]  
**Subject:** RE: Redevelopment within VB/I70 OU1 & OU3

Will do. I'll copy you in the email to Agatha.

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**From:** Chalfant, Mark <Chalfant.Mark@epa.gov>  
**Sent:** Wednesday, May 13, 2020 09:17  
**To:** Aviles, Jesse <Aviles.Jesse@epa.gov>  
**Subject:** RE: Redevelopment within VB/I70 OU1 & OU3

Jesse,

I didn't realize Fonda already sent it to the developer. Yes, I think it's fine to forward give that Fonda already sent it externally. You now have my thoughts on the matter if the developer decides to pursue this.

Thanks,  
Mark

Mark A.R. Chalfant  
Office of Regional Counsel | U.S. EPA Region 8  
1595 Wynkoop Street, Denver, CO 80202 (Mail Stop: 8ORC-C)  
Work: 303.312.6177 | Fax: 303-312-6953 | [chalfant.mark@epa.gov](mailto:chalfant.mark@epa.gov)

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**From:** Aviles, Jesse <[Aviles.Jesse@epa.gov](mailto:Aviles.Jesse@epa.gov)>  
**Sent:** Wednesday, May 13, 2020 9:03 AM  
**To:** Chalfant, Mark <[Chalfant.Mark@epa.gov](mailto:Chalfant.Mark@epa.gov)>  
**Subject:** RE: Redevelopment within VB/I70 OU1 & OU3

Hello Mark:

I was just thinking of forwarding the relevant portion of Fonda's email without any edits. I will mention that Fonda already sent it to the developer and captures our shared thoughts. Fonda also responded to Agatha yesterday with something similar. He later said that he couldn't find this email to forward it. Is it ok to send it without any edits?

Thanks,

Jesse

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**From:** Chalfant, Mark <[Chalfant.Mark@epa.gov](mailto:Chalfant.Mark@epa.gov)>  
**Sent:** Wednesday, May 13, 2020 08:21  
**To:** Aviles, Jesse <[Aviles.Jesse@epa.gov](mailto:Aviles.Jesse@epa.gov)>  
**Subject:** RE: Redevelopment within VB/I70 OU1 & OU3

Good morning Jesse,

Sorry I wasn't able to get back to you yesterday. I was tied up working on a settlement agreement on another site. The conditions you and Fonda have developed look good to me. I have inserted my suggested changes in green highlight and strike-out below. Please let me know if you have any questions or wish to discuss.

One thing you probably want to think about is the timing for a reasonable steps letter in light of the fact that EPA and the state are requiring additional site characterization. One option is to issue a letter now and possibly amend it at a later date to include additional reasonable steps depending on the additional site characterization data. The other is to issue the letter after we receive the data. I suspect that the prospective purchaser (and its lender) will want a letter now. In that case, we should include a caveat in the letter that EPA reserves the right to supplement the reasonable steps once the agency receives the site characterization data. Your thoughts?

Thanks,  
Mark

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**From:** Aviles, Jesse <[Aviles.Jesse@epa.gov](mailto:Aviles.Jesse@epa.gov)>  
**Sent:** Tuesday, May 12, 2020 2:16 PM  
**To:** Chalfant, Mark <[Chalfant.Mark@epa.gov](mailto:Chalfant.Mark@epa.gov)>; Apostolopoulos, Fonda <[fonda.apostolopoulos@state.co.us](mailto:fonda.apostolopoulos@state.co.us)>  
**Subject:** FW: Redevelopment within VB/I70 OU1 & OU3  
**Importance:** High

Hello:

Mark, Fonda and I received this email from the city. The feedback Agatha is asking for is very similar to what we discussed about two months ago. That discussion was for the same property. Below I added the text of the email that Fonda sent to Terracon on March 9. I suggest that we talk to Agatha and send her the text below as that was the suggestion for Terracon. She can use this to decide on her approval or denial of the redevelopment.

Let me know if you have questions. Thanks.

Jesse

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Jeff.

We just had a phone call with the EPA, talking about the possibilities of redeveloping the Fox St. site through the Voluntary Cleanup Program. It was determined that the state and EPA can work together on this site with the following stipulations:

1. Additional Extra characterization will be required on this site due to known debris left behind from the former Argo Smelter and results of data from the Remedial Investigation (RI).
2. A detailed Materials Management Plan (MMP) will be required for redevelopment on this site with trained environmental professionals present at all excavations during construction.
3. We will need the layout of all the new buildings being constructed, with a map showing the boundaries of OU3 with respect to your project.
4. Because EPA Since there has not been a Record of Decision (ROD) written for this OU, the new owners will have to allow EPA and its their contractors access to the property and coordinate in advance work with EPA regarding any cleanup activities.
5. Depending on where contamination from the former smelter is found, if it is not cleaned up, an Environmental Use Restriction (EUR) will have to be attached to the deed stating what the restrictions are (i.e., MMP for any excavation, no beneficial use of GW) for the site.
6. It is the responsibility of the prospective purchaser to establish and maintain Bona Fide Prospective Purchaser status (BFPP) for this site, and;
7. EPA is open to issuing the prospective purchaser a reasonable steps letter; and
8. Portions of the site property which fall within lie in OU3 will not be eligible for Brownfield Tax Credits.

Here's the EPA model comfort letter/reasonable steps letter I spoke to you about.

Let's set up a meeting with your client so we can go over this letter and discuss reasonable steps acceptable to the agencies with your client, if they decide to move forward,

Fonda

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**From:** Linger, Agatha M. - DPHE Env Pub Hlth Analyst II <[Agatha.Linger@denvergov.org](mailto:Agatha.Linger@denvergov.org)>  
**Sent:** Tuesday, May 12, 2020 13:22  
**To:** Aviles, Jesse <[Aviles.Jesse@epa.gov](mailto:Aviles.Jesse@epa.gov)>; Apostolopoulos, Fonda <[fonda.apostolopoulos@state.co.us](mailto:fonda.apostolopoulos@state.co.us)>  
**Cc:** Ross, Andrew - DPHE Environmental Projects Manager <[Andrew.Ross@denvergov.org](mailto:Andrew.Ross@denvergov.org)>  
**Subject:** Redevelopment within VB/I70 OU1 & OU3  
**Importance:** High

Good Afternoon Jesse and Fonda,

I hope this email finds you both healthy and well. The City and County of Denver has received concept plans for a large redevelopment at 4400 N Fox Street located southwest of the I-25 and I-70 interchange. The northern portion of the redevelopment area is located within the boundaries of VB/I-70 OU3 and the southern portion is located within the boundaries of OU1. The attached *Fox Park General Map* depicts the approximate boundaries of the redevelopment area in turquoise and VB/I-70 areas are shaded purple. The plans are stamped confidential, but I have attached an article published yesterday for your reference.

I received the concept plans today and must approve or deny next week, but I wanted to obtain and incorporate feedback from you both since the redevelopment area is located within VB/I-70. Can you please provide me feedback by next Monday (5/18) regarding approval or denial of this redevelopment?

Thank you,

**Agatha Linger**  
Environmental & Public Health Analyst II  
[Department of Public Health & Environment](#)  
Environmental Quality Division | City and County of Denver  
PHONE: 720-865-5356  
Follow us @DDPHE



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